

AMENDED IN ASSEMBLY JULY 15, 1999

AMENDED IN SENATE MAY 17, 1999

AMENDED IN SENATE MAY 6, 1999

SENATE BILL

No. 607

**Introduced by ~~Senator Chesbro~~ *Senators Chesbro, Burton,
and Perata***

February 23, 1999

An act to amend Section 25503.30 of, *and to add Section 23358.5 to*, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 607, as amended, Chesbro. Alcoholic beverages: tied-house restrictions.

The Alcoholic Beverage Control Act contains so-called tied-house restrictions, which generally prohibit a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler from, among other things, holding the ownership, directly or indirectly, of any interest in any on-sale or off-sale license, licensee, or licensed premises. Existing law contains various exemptions from this restriction on tied interests, including an exception permitting any winegrower, or its direct or indirect subsidiaries, as specified, to hold an ownership interest or financial or representative relationship in any on-sale license or the business conducted under that license, provided that certain conditions are met. One condition is that the on-sale licensee purchases all alcoholic

beverages sold and served only from California wholesale licensees.

This bill would revise this condition to require that the on-sale licensee purchase all alcoholic beverages sold and served only from California wholesale licensees or wine from California licensed winegrowers, *subject to specified conditions.*

The bill would also create an historic winegrower-cafe license, with designated fees required for the license, and permit a licensee who meets specified conditions to sell beer and wine at a bona fide eating place, as defined.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23358.5 is added to the Business
2 and Professions Code, to read:
3 23358.5. (a) An historic winegrower-cafe license is a
4 retail, on-sale beer and wine license operated as a cafe and
5 owned, in whole or in part, directly or indirectly, by any
6 winegrower; any shareholder; equity owner; officer;
7 director; or agent of the winegrower; any person holding
8 any interest in those persons or the business operated by
9 those persons, or any relative of the first or second degree
10 of any of those persons, where the winegrower fulfills the
11 requirements of subdivision (b). A historic
12 winegrower-cafe may sell all beer and wine to consumers
13 for consumption on the premises at a bona fide eating
14 place, as defined in Section 23038, operated by or for the
15 licensee located on or off the winegrower's premises.
16 (b) An historic winegrower is licensed under Section
17 23356, maintains, on its licensed premises, at least three
18 buildings constructed in the 19th century, and operates
19 a licensed premises on which wine has been produced,
20 under the existing or any former ownership, during at
21 least 95 years of the 20th century on a portion of the
22 original Rancho Caymus land grant.
23 (c) Notwithstanding any other provision of this
24 division, none of the persons specified in this section shall

1 *hold any of the interests specified herein in more than*
2 *eight historic winegrower-cafe licenses.*

3 *(d) Except as specified in this subdivision, an historic*
4 *winegrower-cafe must purchase from licensed*
5 *wholesalers all beer and wine brands sold to consumers*
6 *for consumption on the premises at a bona fide public*
7 *eating place. No more than 15 percent of those wine*
8 *brands may be produced or bottled by, produced for, or*
9 *produced and packaged for the historic winegrower*
10 *specified in subdivision (b). Notwithstanding the*
11 *foregoing, the historic winegrower-cafe may obtain up to*
12 *15 percent of its wine brands from any authorized source.*

13 *(e) Any application for an original historic*
14 *winegrower cafe license shall be accompanied by an*
15 *original fee equal to that required for an on-sale beer and*
16 *wine licensed pursuant to Section 23954.5. The annual fee*
17 *for an historic winegrower-cafe license shall equal the*
18 *annual fee for an on-sale beer and wine license pursuant*
19 *to Section 23320.*

20 *SEC. 2. Section 25503.30 of the Business and*
21 *Professions Code is amended to read:*

22 *25503.30. (a) Notwithstanding any other provision of*
23 *this division, a winegrower or one or more of its direct or*
24 *indirect subsidiaries of which the winegrower owns not*
25 *less than a 51 percent interest, who manufactures,*
26 *produces, bottles, processes, imports, or sells wine and*
27 *distilled spirits made from grape wine or other grape*
28 *products only, under a winegrower's license or any other*
29 *license issued pursuant to this division, or any officer or*
30 *director of, or any person holding any interest in, those*
31 *persons may serve as an officer or director of, and may*
32 *hold the ownership of any interest or any financial or*
33 *representative relationship in, any on-sale license, or the*
34 *business conducted under that license, provided that,*
35 *except in the case of a holder of on-sale general licenses*
36 *for airplanes and duplicate on-sale general licenses for air*
37 *common carriers, all of the following conditions are met:*

38 *(1) The on-sale licensee purchases all alcoholic*
39 *beverages sold and served only from California wholesale*
40 *licensees or wine from California licensed winegrowers,*

1 *if the wine purchased is produced or bottled by, or*
2 *produced and packaged for, the same licensed*
3 *winegrower who holds an interest in the on-sale license.*

4 (2) The number of wine items by brand offered for
5 sale by the on-sale licensee that are produced, bottled,
6 processed, imported, or sold by the licensed winegrower
7 or by the subsidiary of which the winegrower owns not
8 less than 51 percent, or by any officer or director of, or by
9 any person holding any interest in, those persons does not
10 exceed 15 percent of the total wine items by brand listed
11 and offered for sale by the on-sale licensee selling and
12 serving that wine.

13 (3) None of the persons specified in this section may
14 have any of the interests specified in this section in more
15 than two on-sale licenses.

16 (b) The Legislature finds that, while this section
17 provides a limited exception for licensed winegrowers,
18 that limited exception is granted for specific purposes,
19 and that it is also necessary and proper that licensed
20 winegrowers maintain the authority granted under this
21 division to sell wine and brandy to any individual
22 consumer or any person holding a license authorizing the
23 sale of wine or brandy.

24 (c) The Legislature finds that it is necessary and
25 proper to require a separation between manufacturing
26 interests, wholesale interests, and retail interests in the
27 production and distribution of alcoholic beverages in
28 order to prevent suppliers from dominating local markets
29 through vertical integration and to prevent excessive
30 sales of alcoholic beverages produced by overly
31 aggressive marketing techniques. The Legislature
32 further finds that the exceptions established by this
33 section to the general prohibition against tied interests
34 must be limited to their express terms so as not to
35 undermine the general prohibition, and the Legislature
36 intends that this section be construed accordingly.

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